

REPORT - PLANNING COMMISSION MEETING
September 8, 2005

Project Name and Number: Interim Study District – Auto Mall Parkway (PLN2005-00307)

Applicant: City of Fremont

Proposal: To consider a City initiated Interim Study District to temporarily control land uses which produce and/or store hazardous materials in quantities and volumes that could pose a public safety concern to a sensitive population and to allow specific commercial and assembly type land uses through the conditional use permit process.

Recommended Action: Recommend to City Council

Location: Generally within 500 feet of the center line of Auto Mall Parkway near I-880 in the Industrial Planning Area.

Area: Not applicable

Owner: Not applicable

Agent of Applicant: Not applicable

Consultant(s): Not applicable

Environmental Review: This project is exempt from CEQA review per Section 15061(b)(3), because the project has no potential for causing a significant effect on the environment.

Existing General Plan: General Industrial Designation

Existing Zoning: General Industrial (G-I) District

Existing Land Use: Primarily industrial uses

Public Hearing Notice: Public hearing notification is applicable. A total of 969 notices were mailed to owners and occupants of property within 300 feet of the subject area on the following streets: Auto Mall Parkway, Brook Terrace, Coleridge Terrace, Manitoba Green, Winnipeg Green, Yale Way, Edison Way, Papillon Terrace, Eagle Terrace, Lawrence Place, Christy Street, Hannover Place, Business Center Drive, Randall Place, Technology Place, South Grimmer Boulevard, Osgood Road, Old Warm Springs Boulevard, Delta Terrace, and Davenport Place. The notices to owners and occupants were mailed on August 26, 2005. A Public Hearing Notice was delivered to The Argus on August 22, 2005 to be published by August 25, 2005.

In addition, a public hearing notice was mailed as a courtesy to City Serve, who represent the faith-based organizations in Fremont. The notice was sent to City Serve as they previously expressed interest in the Auto Mall Pocket Area as a potential location for religious facilities during the prior moratorium on assembly uses in the industrial districts.

Executive Summary: To protect Fremont's Restricted Industrial (I-R) and General Industrial (G-I) districts for research and development activities and heavier industrial uses respectively, and to increase public safety, a moratorium was adopted to prohibit assembly uses in the I-R and G-1 zoning districts. The moratorium applied to assembly and other uses which brought sensitive and large populations into both districts, **except for parcels located generally within 500 feet of the centerline of Auto Mall Parkway near of I-880.** The Auto Mall Pocket Area was exempt from the moratorium due to the existing land use mix which currently occupies the area. The moratorium was subsequently ended when the Planning Commission recommended, and the City Council adopted, modifications to the zoning text which placed limits

on certain hazardous materials, and modified which types of land uses would be permitted and prohibited within the Restricted and General Industrial Districts.

While the zoning text amendments addressed City-wide concerns regarding compatible uses and safety, Auto Mall Parkway remains an area with mixed land uses which appears to need specifically tailored study and solutions. An Interim Study District Zoning Amendment is currently proposed which would reduce the levels of hazardous materials which could be stored and/or produced within the study district. This Interim Study District would also allow certain commercial and assembly type land uses which may be conditionally permitted within the Study District. The proposal before Planning Commission is to recommend an Interim Study District to the City Council that will modify the land uses allowed within the Auto Mall Pocket area which is currently zoned General Industrial (G-I) during the study period.

Background and Previous Actions: Due to the economic climate, there continues to be many vacancies in the City's industrial districts. Because of the available space and lower rents, property owners and tenant applicants have been approaching the City with proposals for non-industrial uses within the industrial districts, such as children's amusement services, religious and other facilities (with child care), and banquet facilities. In the past, these non-industrial users found locations in Fremont's commercial district. However, as noted above, businesses and organizations are attracted to industrial areas due to the available space and lower rents.

As noted, there was concern about the potential incompatibility between traditional industrial uses and patrons of non-industrial uses. This stems from the City's interest in maintaining a safe environment for these patrons and preserving the viability of the City's industrial district.

In October 2003, Council adopted an interim moratorium on assembly type uses in the I-R and G-I districts while staff researched and analyzed this land use issue. During this period, staff determined that the moratorium on assembly uses did not need to apply to the entire G-I district, therefore, a "pocket" generally located within 500 feet of the centerline of Auto Mall Parkway near I-880 was created where assembly uses could locate. The moratorium was subsequently ended when the City Council adopted zoning text amendments which limited certain quantities and types of hazardous materials, and modified the types of land uses allowed within the Restricted and General Industrial Districts.

Because the Auto Mall Parkway area remains zoned as General Industrial, the zoning text amendment generally prohibits assembly uses within that district. Because of the transition of uses occurring in this Auto Mall Parkway area, and the interest in allowing assembly uses (as was allowed during the moratorium), on April 12, 2005, the City Council directed staff to proceed with the necessary work required to implement an Interim Study District for the designated portion of Auto Mall Parkway.

Project Description& Analysis: The proposal is to modify the zoning on a portion of land adjacent to Auto Mall Parkway near I-880 (see Location Map) by implementing an Interim Study District. The purpose of the Interim Study District is to permit temporary control of development in the area while detailed studies are being completed. Such temporary control is being exercised through an interim rezoning to prevent any changes in land use which may be inconsistent with the plan and precise zoning that will be formulated. The benefit of this approach is that a "proposed study plan (ordinance)" has to be prepared and approved by the City Council which outlines all the additional land uses that are being proposed and anticipated to be incorporated into the future General Plan Amendment and Rezoning of the study district. The proposed study plan would reduce the amount of hazardous materials permitted within the study area and outline the proposed commercial and assembly-uses to be allowed within the study area. The proposed study plan/ordinance is shown on Exhibit "A" attached to this report. The following is a section-by-section review of the proposed study plan.

- Section 2: Staff is not proposing to delete any uses currently permitted within the General Industrial (G-I) District. The only change to the current G-I district that staff is proposing is that any future users or producers of hazardous material will have to comply with the High Intensity Hazardous Materials users table relating to the Light Industrial (I-L) District. Therefore, staff is recommending that the quantities and volumes of hazardous material permitted within the Interim Study District be reduced to the levels allowed within the I-L District, which should reduce the potential land use conflicts between industrial, commercial and assembly-type land uses.

- Section 3: Staff is recommending that the following assembly uses be allowed with a Conditional Use Permit as outlined in Chapter 25 of the Fremont Municipal Code. The proposed uses are as follows: Amusement and recreational services², Apparel and accessory stores², Banquet halls¹ on arterial streets, Concert halls¹, Dinner theater, Exhibition or conference halls¹ on arterial streets, Furniture and home furnishing and equipment², General merchandise², Health clubs and spas², Home improvement centers¹, Motels and hotels limited service¹, Performing arts theater¹, Religious facilities^{1,3}, Skating rinks¹, and any other retail or assembly type land uses which the planning commission finds similar in nature, function and operation to the conditional uses in the study district.
- Section 4: Staff is proposing to insert the specific requirements which applicants proposing to operate an "Assembly use", would be required to complete and submit with their application. The purpose of the provisions is to allow staff to complete a thorough review and analysis of the intended assembly use as well as to allow landowners and tenants to be aware of the proposed assembly use. These proposed requirements include:
 1. The applicant shall provide a written description of the proposed operation of the use, including but not limited to the total number of occupants anticipated; a statement as to whether or not any "sensitive populations" will be involved in any activities; the type of activities proposed both as a main use or as an accessory use.
 2. The applicant shall submit written verification to the City, obtained through consultation with the Fire Department Hazardous Materials Division, that at the time of application submittal, there are no incompatible hazardous occupancies (uses) located on, or immediately adjacent to, the subject site. If after consulting with the Hazardous Materials Division it is determined that the proposed location is on or immediately adjacent to an existing hazardous materials facility in excess of Range 1, with Group A chemicals, or in excess of Range 3 with Group B or C chemicals as outlined in Sec. 8-22143.3 High Intensity Hazardous materials uses, then the applicant shall complete a thorough technical evaluation to determine if there are engineering or administrative controls available to mitigate the impacts of a hazardous materials release, as well as any evacuation or shelter-in-place programs to which the proposed assembly type use should adhere.
 3. The applicant shall acknowledge that the City shall notify property owners and tenants within 1000 feet of the subject site of the application within 30 days of receiving a complete application, in order to obtain initial input on the proposal.
 4. When an assembly use is located, or proposed to be located, in a multi-tenant building, an agreement that adequately provides for limitation of any subsequent hazardous material users on the same site shall be executed and recorded between the property owner, applicant, and the city.
 5. The applicant shall acknowledge through a written statement that they are locating within the industrial area and those higher levels of noise, traffic and exposure to hazardous materials can occur.
- Section 5: This section notes that all other requirements and provisions of the General Industrial (G-I) district shall apply to the Interim Study District.

Conclusion: The purpose of an Interim Study District is as follows: *"To permit temporary control of the development in an area while detailed studies are being made. Such temporary control shall be excised to prevent any changes in the use of land which may be inconsistent with the plan and precise zoning being formulated."* The proposed Study Plan meets the purpose by regulating those land uses which use/produce and/or store significant quantities of hazardous materials within the Interim Study District and allowing assembly uses through the conditional use permit process that are envisioned to be consistent with the future plan for the area.

- **General Plan Conformance:** The proposed Interim Study District Amendment conforms with the following policies of the Fremont General Plan and City's Strategic Plan:
 - General Plan Fundamental Goal 9: "A large diversified industrial and commercial base to meet the employment needs of the City's present and future workforce".

- General Plan Land use Goal 1: "Sufficient land to provide a diversified industrial base to meet the employment needs of the City's present and future workforce".
- General Plan Health and Safety Goal 6: "Minimum feasible risk to lives and property due to use, storage and transportation of hazardous materials and waste".
- General Plan Health and Safety Goal 6.1: "Sufficient regulation of land use to minimize potential health and safety risks associated with current or past hazardous materials in Fremont".
- Strategic plan: Enduring Community Values and Core Services: "People value a feeling of safety and security within their community". Services supporting this value include: fire prevention and suppression, and hazardous materials management.

Environmental Analysis: This project is exempt from CEQA review per Section 15061(b)(3), because the project has no potential for causing a significant effect on the environment.

Outreach: A Courtesy Notice was sent out to owners of land and tenants within the limits of the Interim Study District in early August 2005, advising everyone of what staff is proposing for the auto Mall Pocket area. Staff did not receive any phone calls or emails in response to the Courtesy Notice. A copy of the Courtesy Notice is attached to the report as an Informational item.

Enclosures: Exhibit "A" Interim Study District – "Proposed Study Plan"
Exhibit "B" Map of Interim Study District

Informational: Courtesy Notice to landowners and tenants

Exhibits: Exhibit "A" Interim Study District – Proposed Study Plan
Exhibit "B" Interim Study District Map

Recommended Actions:

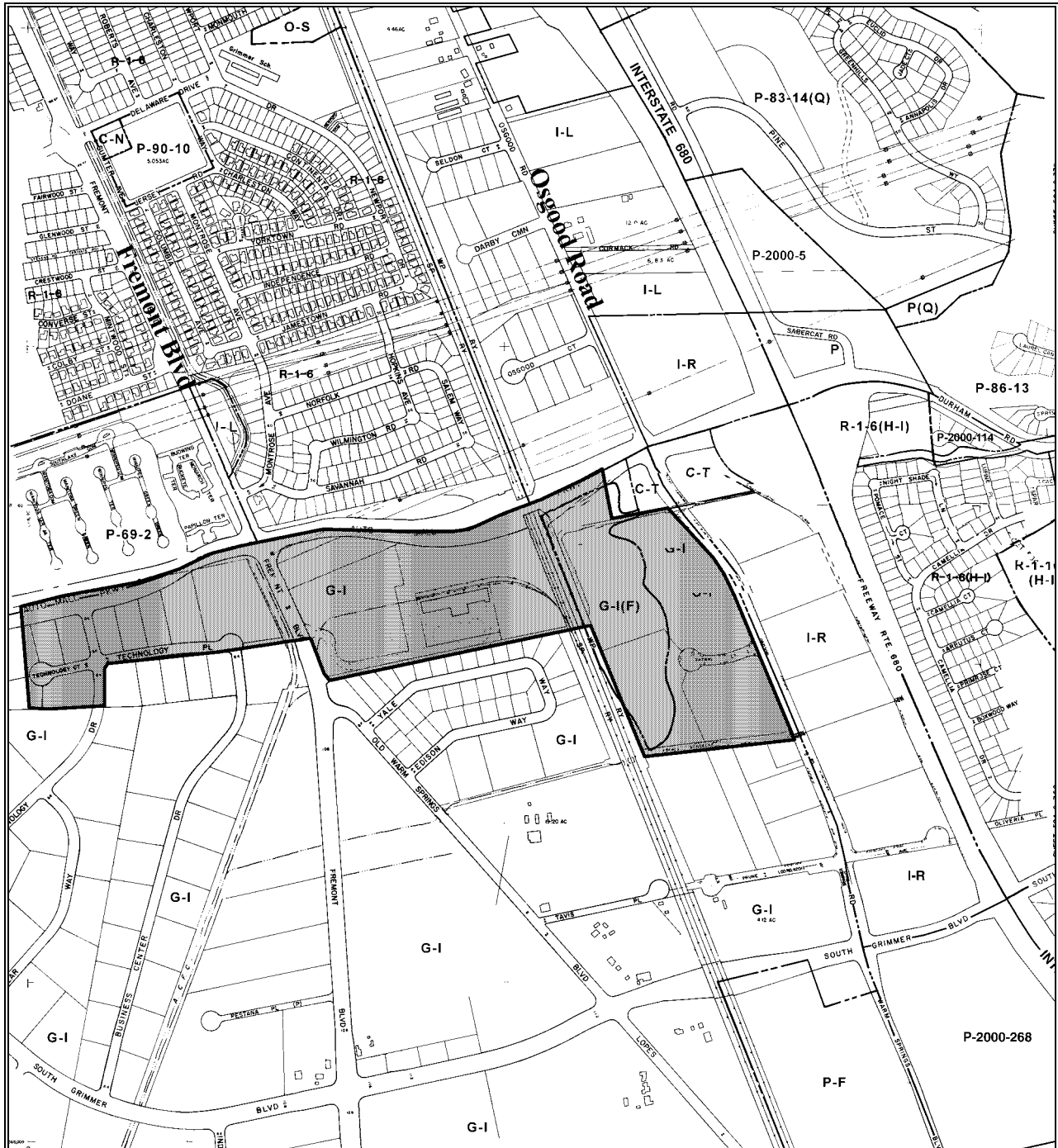
1. Hold public meeting.
2. Recommend that the City Council find this project exempt from CEQA review per Section 15061(b)(3), because the project has no potential for causing a significant effect on the environment.
3. Recommend that the City Council find that PLN2005-00307 is in conformance with the relevant policies contained in the City's General Plan. These provisions include the designations, goals, and policies set forth in the City's General Plan's Land use and Health & Safety Chapters as enumerated within the staff report.
4. Recommend that the City Council find the public necessity, convenience and general welfare require the adoption of the Interim Study District PLN2005-00307 because it will assist in preventing adverse impact on conflicting land uses in the industrial area.
5. Recommend PLN2005-00307 to the City Council in conformance with Exhibit "A" (Interim Study District) and Exhibit "B" (Interim Study District Map).

[illegible]

Existing General Plan



Existing Zoning
Shaded Area represents the Project Site



Existing General Plan



Exhibit "A"
Interim Study District – PLN2005-00307
Auto Mall Pocket

AN INTERIM STUDY DISTRICT OF THE CITY OF FREMONT IMPOSING TEMPORARY CONTROL ON DEVELOPMENT IN A SPECIFIC AREA OF THE GENERAL INDUSTRIAL (G-I) DISTRICT

Section 1. Purpose.

- A. The purpose of this ordinance is to permit temporary control of the development of lands generally described as being within 500 feet of the centerline of Auto Mall Parkway in the vicinity of I-880, more particularly described on map attached hereto. Such temporary control is being exercised while studies are being completed to determine the appropriate land use designation and zoning for the study area, as well as to prevent any changes in land use which may be inconsistent with the findings of the study. The temporary control would be placed on those land uses which use, produce and/or store hazardous materials in specific quantities and volumes that could pose a public safety concern to a sensitive population. The Study District will also outline various regionally oriented commercial uses and assembly-type land uses which may be conditionally permitted in the district and are generally consistent with the envisioned land use approach for the Study District.
- B. The uses subject to this temporary control are those which use, produce and/or store hazardous materials in quantities and volumes in excess of the High Intensity Hazardous Materials users table relating to the Light Industrial (IL) District [Sec.8-22143.3 (f)] of the Fremont Municipal Code (FMC). By requiring all industrial uses within the Interim Study District to comply with the Light Industrial (I-L) District regulations in relation to hazardous uses, it should reduce the potential land use conflicts between these land uses and potential commercial, retail, office, and assembly uses. The need to reduce the level of hazardous materials within the study area stems from the City's interest in allowing regionally oriented commercial and assembly-type land uses to locate within the Study Area due to the current type/mix of existing land uses that have located within the area over time. Section 2 also outlines those commercial and assembly-type land uses which may be conditionally permitted within the Study Area.

Section 2.

- (i) Except as set forth in this subsection (i), all uses currently permitted in the General Industrial (G-I) District in Article 16 of the Fremont Municipal Code shall be permitted in the Study Area provided the following provision is met;

All uses within the Study Area shall comply with the regulations pertaining to hazardous materials contained in Section 8-22143.3 (Light Industrial (I-L) District) of Chapter 12 of the Fremont Municipal Code.

Section 3.

The following additional Condition Uses may be allowed with a conditional use permit in the Study Area;

Conditional uses: Planning commission as reviewing agency⁴

The following uses may be allowed with a conditional use permit. The procedure for a conditional use permit shall be as set forth in Article 25 of this chapter.

- (a) Amusement and recreational services²
- (b) Apparel and accessory stores;²
- (c) Banquet halls¹ on arterial streets;
- (d) Concert halls;¹
- (e) Dinner theater;
- (f) Exhibition or conference halls¹ on arterial streets;
- (g) Furniture and home furnishings and equipment;²
- (h) General merchandise;²
- (i) Health clubs and spas;²

- (j) Home improvement centers;¹
- (k) Motels and hotels limited service;¹
- (l) Performing arts theater;¹
- (m) Religious facilities;^{1,3}
- (n) Skating rinks;¹
- (o) Any other retail and assembly land use which the planning commission finds similar in nature, function and operation to conditional uses in the district

Section 4. Applications for Assembly Type Uses

Applications for Assembly Uses¹ shall be accompanied by the following information in addition to the requirements outlined in Article 25 and 25.5;

1. The applicant shall provide a written description of the proposed operation of the use, including but not limited to the total number of occupants anticipated; a statement as to whether or not any "sensitive populations" will be involved in any activities; the type of activities proposed both as a main use or as an accessory use.
2. The applicant shall submit written verification to the City, obtained through consultation with the City of Fremont Fire Department Hazardous Materials Division that at the time of application submittal, there are no incompatible hazardous occupancies (uses) located on, or immediately adjacent to, the subject site. If after consulting with the Hazardous Materials Division it is determined that the proposed location is on or immediately adjacent to an existing hazardous materials facility in excess of Range 1, with Group A chemicals, or in excess of Range 3 with Group B or C chemicals as outlined in Sec. 8-22143.3 High Intensity Hazardous materials uses, then the applicant shall complete a thorough technical evaluation to determine if there are engineering or administrative controls available to mitigate the impacts of a hazardous materials release, as well as any evacuation or shelter-in-place programs to which the proposed assembly type use should adhere.
3. The applicant shall acknowledge that the City shall notify property owners and tenants within 1000 feet of the subject site of the application within 30 days of receiving a complete application, in order to obtain initial input on the proposal.
4. When an assembly use is located, or proposed to be located, in a multi-tenant building, an agreement that adequately provides for limitation of any subsequent hazardous material users on the same site shall be executed and recorded between the property owner, applicant, and the city.
5. The applicant shall acknowledge through a written statement that they are locating within the industrial area and that higher levels of noise, traffic and exposure to hazardous materials can occur.

Section 5.

All other requirements and provisions of Article 16. General Industrial (G-I) District of Chapter 2 (Zoning), Title VIII (Planning and Zoning) of the Fremont Municipal Code shall apply to the Interim Study District Area, as defined.

Section 6. Effective Period

In accordance with Section 8-21805 of the Fremont Municipal Code, this ordinance shall be in full force and effect for a period of one year from the date of adoption. The ordinance may be extended for up to one additional year upon determination by the planning commission and city council that the extension would be necessary for the public good.

EXHIBIT "B"

Attached to and made a part of

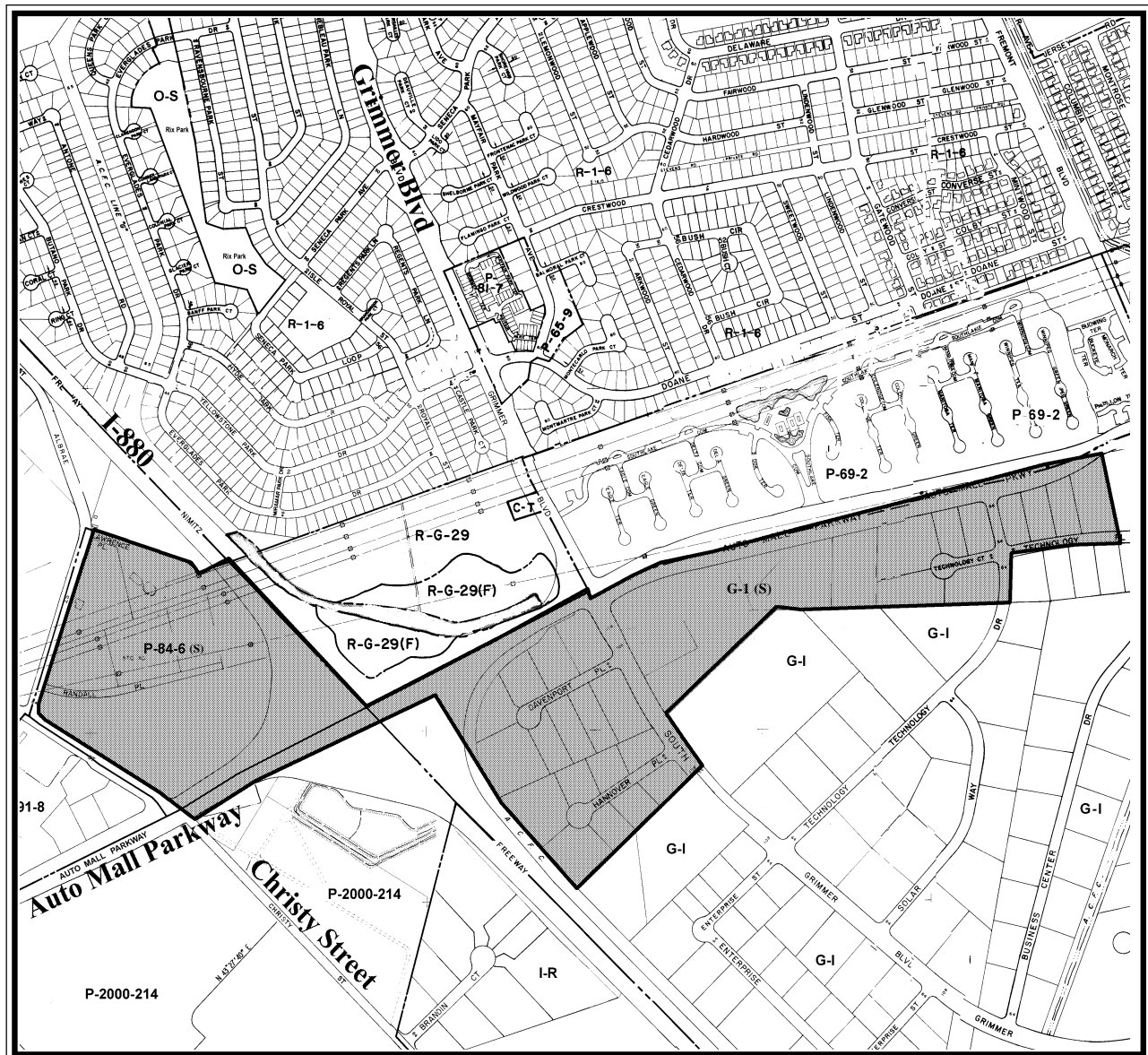
Ordinance No. _____

adopted by the City Council of the City of Fremont, California

On the _____ **day of** _____, **20 05** .

ZONING MAP (SECTION)

AFFECTS ZONING MAP(S) FOR THE INDUSTRIAL PLANNING AREA



[PC on 09-08-2005]

From: G-1 & P-84-6

To: G-1(S) & P-84-6 (S)

Project Name: Auto Mall Study District

Project Number: PLN2005-00307



EXHIBIT “B”

Attached to and made a part of

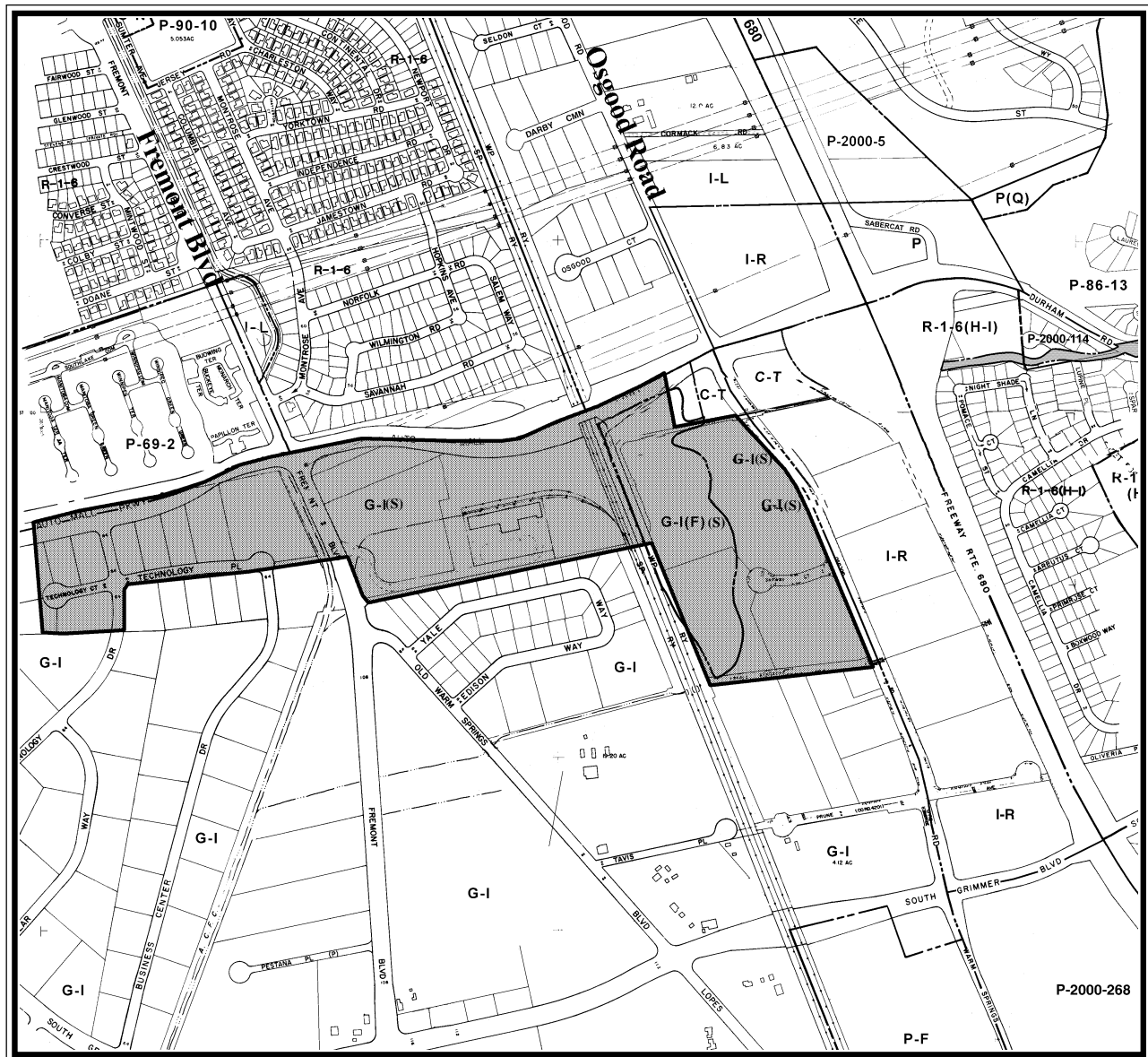
Ordinance No. _____

adopted by the City Council of the City of Fremont, California

On the _____ **day of** _____, **20 05** .

ZONING MAP (SECTION)

AFFECTS ZONING MAP(S) FOR THE INDUSTRIAL PLANNING AREA



[PC on 09-08-2005]

From: G-1 & G-1(F)

To: G-1(S) & G-1 (F)(S)

Project Name: Auto Mall Study District

Project Number: PLN2005-00307